



DEVELOPMENT SERVICES DEPARTMENT  
ENVIRONMENTAL COORDINATOR  
450 110<sup>th</sup> Ave NE  
BELLEVUE, WA 98009-9012

### DETERMINATION OF NON-SIGNIFICANCE

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**PROPONENT:** Kelly/McQuarrie Landscaping Project

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**LOCATION OF PROPOSAL:** 604 177th Lane NE

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**DESCRIPTION OF PROPOSAL:** Application for Land Use approval of a Critical Areas Land Use Permit to construct a new concrete patio with hot tub, construct a new staircase and walkway, expand an existing walkway with gravel. The proposed scope of work is located in the required 50 ft. top of slope buffer for a Critical Area Steep Slope.

**FILE NUMBERS:** 20-120836-LO **PLANNER:** Kimo Burden

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- ☐ There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on \_\_\_\_\_.
- ☒ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **10/14/2021**
- ☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on \_\_\_\_\_. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on \_\_\_\_\_.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

 For \_\_\_\_\_  
Elizabeth Stead, Environmental Coordinator

9/30/2021  
Date

**OTHERS TO RECEIVE THIS DOCUMENT:**

- ☒ State Department of Fish and Wildlife / [Stewart.Reinbold@dfw.gov](mailto:Stewart.Reinbold@dfw.gov)
- ☒ State Department of Ecology, Shoreline Planner N.W. Region / [Jobu461@ecy.wa.gov](mailto:Jobu461@ecy.wa.gov); [sepaunit@ecy.wa.gov](mailto:sepaunit@ecy.wa.gov)
- ☒ Army Corps of Engineers [Susan.M.Powell@nws02.usace.army.mil](mailto:Susan.M.Powell@nws02.usace.army.mil)
- ☒ Attorney General [ecyolyef@atg.wa.gov](mailto:ecyolyef@atg.wa.gov)
- ☒ Muckleshoot Indian Tribe [Karen.Walter@muckleshoot.nsn.us](mailto:Karen.Walter@muckleshoot.nsn.us); [Fisheries.fileroom@muckleshoot.nsn.us](mailto:Fisheries.fileroom@muckleshoot.nsn.us)



**City of Bellevue**  
**Development Services Department**  
**Land Use Staff Report**

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**Proposal Name:** Kelly/McQuarrie Landscaping Project

**Proposal Address:** 604 177<sup>th</sup> Lane NE

**Proposal Description:** Land Use approval of a Critical Areas Land Use Permit to construct a new concrete patio with hot tub, construct a new staircase and walkway, and expand an existing walkway with gravel. The proposed scope of work is located in the required 50 ft. top of slope buffer for a Steep Slope Critical Area. The application also includes a mitigation plan.

**File Number:** 20-120836 LO

**Applicant:** **Kathleen Kelly**

**Decision Included:** Critical Areas Land Use Permit  
(Process II. LUC 20.30P)

**Planner:** Kimo Burden, Associate Planner

**State Environmental Policy Act  
Threshold Determination:** **Determination of Non-Significance**

**Director's Decision:** **Approval with Conditions**

Mike Brennan, Director  
Development Services Department

 For

By: \_\_\_\_\_  
Elizabeth Stead, Land Use Director

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Application Date:	<u>November 10, 2020</u>
Notice of Application Publication Date:	<u>December 3, 2020</u>
Decision Publication Date:	<u>September 30, 2021</u>
Project/SEPA Appeal Deadline:	<u>October 14, 2021</u>

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For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

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### **Attachments:**

1. Project Plans – Enclosed
2. Environmental and Geotechnical Support Materials - In File

## **I. Proposal Description**

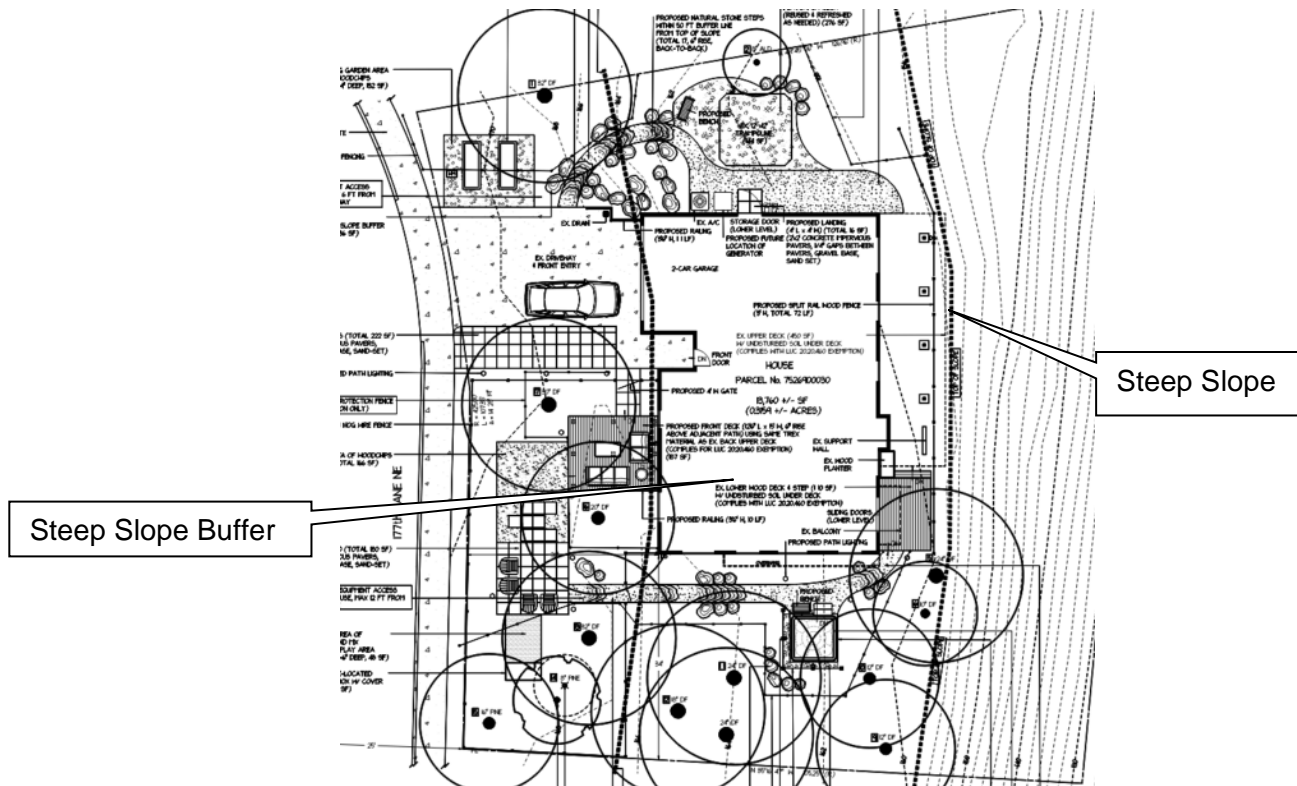
The applicant is requesting approval of a Critical Areas Land Use Permit to modify and expand landscape features located in a 50 ft. top of slope buffer of a steep slope critical area. The proposed scope of work is listed below:

- Construct a 276 sq. ft. recreational area.
- Replace an existing 50 sq. ft. gravel path.
- Expand and replace an existing gravel path located in the east side yard by 65 sq. ft.
- Add a 16 sq. ft. concrete landing.
- Construct a 72 linear foot spit rail fence.
- Replace an existing 171 sq. ft. gravel pathway located in the west side yard.
- Construct a new 64 sq. ft. concrete pad for a hot tub.
- Construct a 19 sq. ft. gravel drain.
- Add 105 sq. ft. of boulder outcroppings around the walkways.
- No significant trees on-site will be removed or disturbed.

The total disturbance proposed in the 50 ft. top of slope buffer is approximately 1,132 sq. ft. The project will replace approximately 221 sq. ft. of existing impervious surfaces and the total new impervious surfaces proposed is 269 sq. ft. Due to the extent and location of the regulated critical area on-site, the property owner has requested modifications to the 50-foot top-of-slope buffer, required in Land Use Code section 20.25H. Modifications to the steep slope buffer may be considered through a Critical Areas Land Use Permit and Critical Areas Report consistent with LUC 20.25H.230.

To mitigate impacts, the applicant is proposing to remove approximately 1,302 sq. ft. of invasive English Ivy and restore this area with approximately 960 sq. ft. of mitigation plantings within the top-of-slope buffer. Mitigation plants include a variety of densely planted native shrubs, and ground cover to improve the site's conditions and provide a net increase in ecological function over existing conditions. A Critical Areas Land Use Permit with a Critical Areas Report is required when a project proposes to modify the prescriptive code standards. This permit establishes conditions and performance standards designed to avoid and minimize impact to the site's sensitive features which must be met in order to obtain subsequent permits for construction of the single-family addition on the property.

### Figure 1 – Project Proposal and LUC Modifications



## II. Site Description, Zoning, Land Use, and Critical Areas

The project site is located at 604 177<sup>th</sup> Lane NE. The lot is bounded by 177<sup>th</sup> Lane NE and West Lake Sammamish Parkway NE. Additionally, the site is approximately 13,650 sq. ft. in size and contains a single-family residence constructed in 1975.

The topography of the site is relatively flat where the existing home is located, but quickly descends southeast at an approximate 66-100 percent grade with approximately 26 feet of elevation change. The vegetation around the house is comprised of lawn and ornamental landscaping. The steep slope contains native ground cover, shrubs, Douglas Fir, Maple and Cottonwood trees.

The underlying zoning of the property is R-2.5, and the Comprehensive Plan Land Use Designation is Single-Family Residential Medium Density (SF-M).

Figure 2 – Aerial Photograph

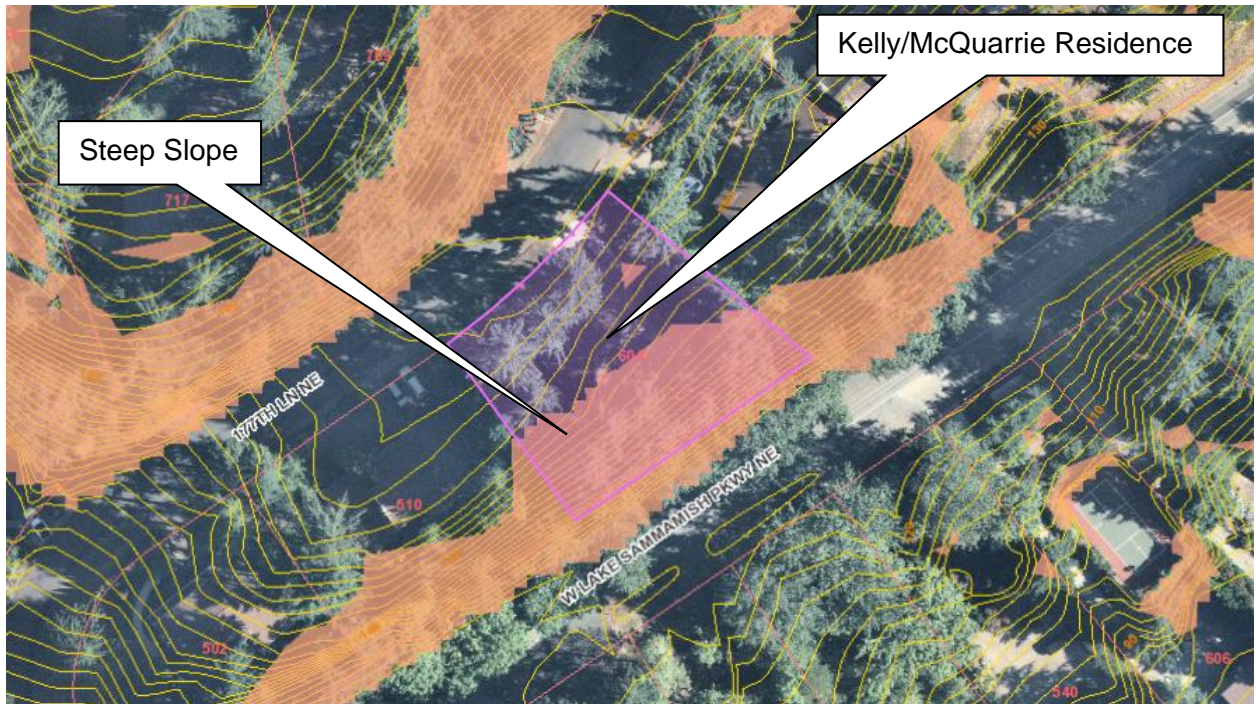
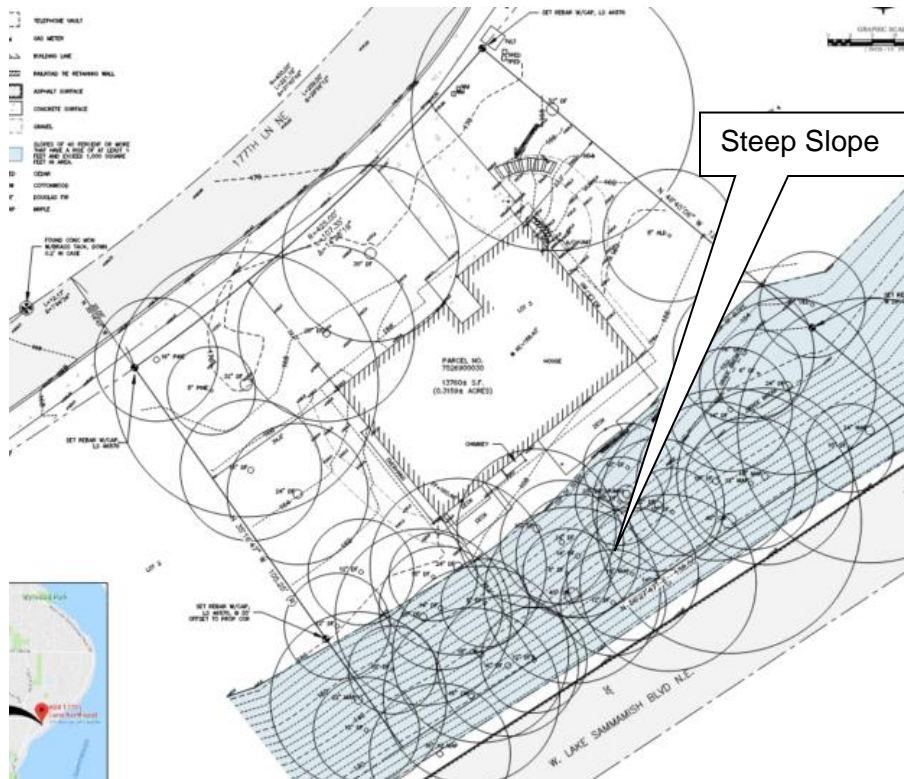


Figure 3 – Site Survey



### **III. Site Context**

#### **A. Critical Areas:**

**Geologic Hazard Areas:** LUC 20.25H.120.A.2 defines steep slope areas as those areas that contain slopes greater than 40%, have a rise of at least 10 feet, and exceed 1,000 sq. ft. in area. The applicant has submitted a topographical site survey and site map identifying a portion of the property meets the abovementioned criteria and is therefore regulated as a critical area. Additionally, under LUC 20.25H.120.B.1, regulated steep slopes are protected by a 50-foot top of slope buffer and a 75-foot toe of slope structure setback. The applicant has worked with a licensed surveyor to identify the steep slope areas on the project site plans and has labeled the associated buffers and setbacks.

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provide a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

### **IV. State Environmental Policy Act (SEPA):**

The proposal is exempt from SEPA review, per WAC 197-11-800 and BCC 22.02.032. Construction of a single-family residence is a categorical exemption even when located in a critical area.

### **V. Consistency with Land Use Code Requirements:**

#### **A. Zoning District Dimensional Requirements:**

The property is within the R-2.5 Zoning District. Based on the materials submitted, the proposal is consistent with the underlying zoning district and consistent with the dimensional requirements in LUC 20.20.010 including, structure setbacks, lot coverage, and impervious surface.

#### **B. Consistency with performance standards for landslide hazards and steep slopes – LUC 20.25H.125**

**1. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;**



**Finding:** The proposed grading and landscape features have been designed to avoid disturbing the steep slope area. No alterations to the natural contour of the steep slope critical area will occur. **See Conditions of Approval in Section X of this report.**

**2. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;**

**Finding:** The proposed grading and landscape features will be located as depicted in the site plan approved under this Critical Areas Land Use Permit. There will be no groundwork or disturbance within the steep slope critical area associated with the proposed grading and landscape features. To alleviate the new disturbance within the 50 ft. top of slope buffer, approximately 1,302 sq. ft. of invasive English Ivy will be removed, and 960 sq. ft. of mitigation planting is proposed within the top of slope buffer. **See Conditions of Approval in Section X of this report.**

**3. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;**

**Finding:** Based on the findings within the geotechnical report and critical areas report the proposed grading and landscape features will not require increased critical area buffers or increase the potential for slope failure on the neighboring properties. **See Conditions of Approval in Section X of this report.**

**4. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;**

**Finding:** The project will not require the use of retaining walls. The minor grading proposed will level the area around the existing trampoline and the proposed hot tub. The average grade change in these areas will be less than 6 inches. The proposed cut will be approximately 3 cy. and approximately 8 cy. of fill. The minor grading will not increase disturbance compared to the use of a retaining wall. **See Conditions of Approval in Section X of this report.**

**5. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;**

**Finding:** Minimum impervious surfaces are proposed within the top of slope buffer. New impervious surfaces proposed within the top of slope buffer will occupy approximately 269 sq. ft. Additionally, impervious surfaces will be further minimized by replacing approximately 221 sq. ft. of existing impervious surfaces in the same footprint. **See Conditions of Approval in Section X of this report.**

**6. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;**



**Finding:** No changes in grade are proposed within the steep slope critical area. **See Conditions of Approval in Section X of this report.**

**7. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;**

**Finding:** No freestanding retaining walls are proposed.

**8. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;**

**Finding:** No ground disturbing construction will occur within the steep slope critical area.

**9. On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and**

**Finding:** No ground disturbing construction will occur within the steep slope critical area. **See Conditions of Approval in Section X of this report.**

**10. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.**

**Finding:** All areas of temporary disturbance and permanent disturbance will be restored and mitigated pursuant to the approved restoration and mitigation plan. **See Conditions of Approval in Section X of this report.**

## **VI. Summary of Technical Reviews**

### **Clearing and Grading:**

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development and concurred with the findings within the Geotechnical Report. All proposed construction activities are subject to rainy season restriction.

## **VII. Public Notice and Comment**

Application Date:	November 10, 2020
Public Notice (500 feet):	December 3, 2020
Minimum Comment Period:	December 17, 2020

The project was publicly noticed in the City's Weekly Permit Bulletin and Seattle Times on December 3, 2020 with notice mailed to property owners within 500 feet of the project site.

No public comments were received and there are no parties of record besides the applicant.

## **VIII. Decision Criteria**

The proposal, as conditioned below, meets the applicable regulations and decision criteria for a Critical Areas Land Use Permit pursuant to LUC Section 20.30P.

### **Critical Areas Land Use Permit Decision Criteria 20.30P**

#### **1. The proposal obtains all other permits required by the Land Use Code;**

**Finding:** The applicant must obtain a Residential Remodel without Structural Work Permit (BT) for the hot tub and a Clearing and Grading in Critical Areas Permit (GJ) before beginning any work. **See Conditions of Approval in Section X of this report.**

#### **2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;**

**Finding:** The proposed construction will follow the design guidelines and requirements identified in the project geotechnical report. **See Conditions of Approval in Section X of this report.**

#### **3. The proposal incorporates the performance standards of LUC 20.25H to the maximum extent applicable, and;**

**Finding:** As discussed in Section V of this report, the proposal meets, or as conditioned will meet, the performance standards of LUC 20.25H.125. **See Section X of this report for a list of conditions associated with the required performance standards.**

#### **4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;**

**Finding:** The proposed minor grading and landscape features are consistent with surrounding land uses and are adequately served by public facilities. All necessary services and ancillary utilities are currently available on-site.

#### **5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC 20.25H.210; and**

**Finding:** The applicant has prepared a mitigation and restoration plan to install a variety of native shrubs, groundcover and removal of invasive plant species within the top of slope buffer area. The water quality and stormwater storage functions on the site will likely increase as a result of dense native plantings that will slow water flow and increase sediment capture and soil stabilization in the steep slope and steep slope buffer. **See Conditions of Approval in Section X of this report regarding the required restoration plan.**

#### **6. The proposal complies with other applicable requirements of this code.**

**Finding:** As discussed in Section V & VI of this report, the proposal complies with all other applicable requirements of the Land Use Code. The proposed development must also comply with the standards of LUC 20.20.010 for the R-2.5 zoning district. **See Conditions of Approval in Section X of this report.**

## **IX. Conclusion and Decision**

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of Development Services does hereby **approve with conditions** this application for a Critical Areas Land Use Permit to modify and expand landscape features located in a 50 ft. top of slope buffer of a steep slope critical area as detailed in this report. **Approval of this Critical Areas Land Use Permit does not constitute a permit for construction. A building permit and clearing and grading permit are required, and all plans are subject to review for compliance with applicable City of Bellevue codes and standards.**

**Note- Expiration of Approval:** In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit for the proposed development automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permits within one year of the effective date of the approval.

## **X. Conditions of Approval**

**The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:**

<b><u>Applicable Codes or Ordinances</u></b>	<b><u>Contact Person</u></b>
Clearing and Grading Code – BCC 23.76	Savina Uzunow, 425-452-6190
Land Use Code – LUC 20.25H	Kimo Burden, 425-452-5242
Noise Control – BCC 9.18	Kimo Burden, 425-452-5242
Construction Code – BCC 23	Building Division, 425-452-4121

**The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:**

- 1. Building Permit Required:** Prior to the commencement of any development activity on this site, the applicant shall submit a Residential Remodel without Structural Work Permit (BT) for the hot tub and a Clearing and Grading in Critical Areas (GJ) application and shall include with the application a copy of the proposed mitigation, restoration, maintenance, and monitoring plan. The proposed development must comply with the requirements of LUC 20.20.010.

Authority: Land Use Code 20.30P.140  
Reviewer: Kimo Burden, Development Services Department

- 2. Land Use Inspection Required:** Inspection of the mitigation planting shall be completed by the Land Use Planner as part of the clearing and grading permit inspection process. A Land Use inspection will be added to the building permit.

Authority: Land Use Code 20.25H.210  
Reviewer: Kimo Burden, Development Services Department

- 3. Tree Protection:** The clearing and grading permit plan submittal shall include the specific tree protection measures consistent with the recommendations in the arborist's report (Greenforest, Inc., April 9, 2021).

Authority: Land Use Code 20.30P.140  
Reviewer: Kimo Burden, Development Services Department

- 4. Maintenance and Monitoring Reports:** The mitigation planting is required to be maintained and monitored for five years to ensure the plants successfully establish. Annual monitoring reports are required to be submitted to document the plants are meeting approved performance standards. Photos from selected photo points shall be included in the monitoring reports to document the planting. Land Use inspection is required by Land Use staff to end the plant monitoring period. Reporting shall be submitted no later than the end of each growing season or by October 31st, and shall include a site plan and photos from photo points established at the time of Land Use inspection. Reports shall be submitted to Kimo Burden by the above listed date and can be emailed to [cburden@bellevuewa.gov](mailto:cburden@bellevuewa.gov).

Authority: Land Use Code 20.30P.140; 20.25H.220  
Reviewer: Kimo Burden, Development Services Department

- 5. Maintenance and Monitoring Surety:** A financial surety is required to be submitted based on 100 percent of the cost to maintain and monitor the plants for five years. A cost estimate is required to be provided under the future Clearing and Grading permit. A financial surety is required to be posted prior to building permit issuance. Release of the surety is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful.

Authority: Land Use Code 20.25H.220  
Reviewer: Kimo Burden, Development Services Department

- 6. Restoration for Temporary Disturbance Outside of Allowed Impact Area:** All temporary impacts outside of the allowed impact area must be identified on the approved site plans and shall only be allowed when no feasible alternative exists. All areas of temporary disturbance shall be photo documented before disturbance occurs and shall be restored to the original condition subject to the approved mitigation, restoration, maintenance and monitoring plan. All restored areas of temporary disturbance are subject to five years of maintenance and monitoring.

Authority: Land Use Code 20.25H.220.H  
Reviewer: Kimo Burden, Development Services Department

- 7. Rainy Season Restrictions:** Due to the proximity to a steep slope, no clearing and grading activity may occur during the rainy season, which is defined as November 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A  
Reviewer: Savina Uzunow, Development Services Department, Clearing and Grading Division

- 8. Clearing Limits and Temporary Erosion and Sedimentation Control:** Prior to the initiation of any clearing or grading activities, clearing limits and the location of all temporary erosion and sedimentation control measure shall be field staked for approval by the on-site clearing and grading inspector.

Authority: Bellevue City Code 23.76.060 and 23.76.090  
Reviewer: Savina Uzunow, Development Services Department, Clearing & Grading Section

- 9. Hold Harmless Agreement:** Prior to building permit or clearing and grading permit approval, the property owner or his/her agent shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the installation of slope stabilization measures. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170  
Reviewer: Kimo Burden, Development Services Department